BOMBAY ACT No. XXII OF 1955.[1]

[THE BOMBAY MERGED TERRITORIES MISCELLANEOUS ALIENATIONS ABOLITION ACT, 1955.]

[*3rd June 1955*]

An Act to abolish miscellaneous alienations of various kinds prevailing in the merged territories in the State of Bombay.

WHEREAS certain kinds of alienations prevailing in the merged territories and merged areas have been abolished ;

AND WHEREAS it is expedient in the public interest to abolish the remaining alienations of miscellaneous character prevailing in the merged territories and to provide for matters consequential and incidental thereto ; It is hereby enacted in the Sixth Year of the Republic of India as follows :—

CHAPTER I.

Preliminary.

Short title, extent and commencement.

1. (*1*) This Act may be called the Bombay Merged Territories Miscellaneous Alienations Abolition Act, 1955.

(*2*) It extends to the merged territories in the State of Bombay.

(*3*) It shall come into force on such date as the State Government may, by notification in the *Official Gazette*, appoint in this behalf.

Definitions.

2. (*1*) In this Act, unless there is anything repugnant in the subject or context,—

(*i*) " alienation " means a grant or recognition as a grant,—

(I) of a village, portion of a village or land to any person, whether such grant be of soil with or without exemption from payment of land revenue or of assignment of the whole or a share of land revenue thereof,

(II) of total or partial exemption from payment of land revenue to a person in respect of any land held by him, or

(III) of cash allowance or allowance in kind to any person by whatever name called,

by the ruling authority for the time being before merger or by the State Government after merger, and includes,—

(*a*) any total or partial exemption from payment of land revenue reserved to himself or enjoyed by a ruler of a former Indian State in respect of any land held by him in his own State before merger as his private property, and

(*b*) Wanta and Giras rights in land or to cash allowances regulated by the rules published under Huzur Cutcherry Notification No. T-3/80 of 1946-47, dated the 24th March 1947 (hereinafter referred to as the Baroda Giras Rules) ;

[1] For Statement of Objects and Reasons, *see Bombay Government Gazette*, 1955, Part V, p. 350.

(*ii*) "alienated land" means a village or portion of a village or land, as the case may be, held by an alienee under an alienation ;

(*iii*) "alienee" means the holder of an alienation and includes his co-sharer recognized as such for the purpose of such alienation ;

(*iv*) "appointed date" means the date on which this Act comes into force ;

(*v*) "Barkhali land" in relation to a Wanta or Giras means land held as Jiwai, Jat Dharmadaya, Devasthan, Pirasthan, Vechania, Gharania, Pasaita Chakariat, Dharmadaya Chakariat, Jat Pasaita, Kanyadan or Bathamania and treated as permanent alienations or settled under the Baroda Giras Rules ;

(*vi*) "Code" means the Bombay Land Revenue Code, 1879 ; Bom. V of 1879.

(*vii*) "Collector" includes an officer appointed by the State Government to perform the functions and exercise the powers of the Collector under this Act ;

(*viii*) "Community service inam" means an alienation held for the purpose of performing service useful to the village community and includes an alienation held for such service even where such service has ceased to be demanded ;

(*ix*) "Commutation settlement" means a settlement made or confirmed under the law applicable to a watan relieving the holder, his heirs and successors of the liability to perform the services appertaining to the watan ;

(*x*) "Girassia" means the holder of a Wanta or Giras ;

(*xi*) "inferior holder" means a person who is in possession of an alienated land not on payment of rent but on payment of assessment in cash or kind to the alienee and includes a person holding such land through or from such person;

(*xii*) "merger" means the cession by the Ruler of a former Indian State of full and exclusive jurisdiction and powers for and in relation to the governance of such State and the transfer of the administration of such State to the State of Bombay under section 290A of the Government of India Act, 1935 ; 26 Geo. 5 Ch 2.

(*xiii*) "permanent tenant" in relation to a Wanta or Giras means the holder of a Wanta or Giras land or Jiwai land who has a permanent tenancy in such land ;

(*xiv*) "prescribed" means prescribed by rules made under this Act ;

(*xv*) "Wanta" or "Giras" means land held as Wanta or Giras by a Girassia in accordance with the provisions of the Baroda Giras Rules ;

(*xvi*) "watan" means an alienation held as watan appertaining to the office of a village accountant commonly known as Kulkarni or known by any other similar name or as watan appertaining to the office of a District (paragana) Officer commonly known as Sardeshmukh, Deshmukh, Deshpande or Desai or known by any other similar name, whether any commutation settlement in respect of such watan has or has not been effected.

(*2*) The other words or expressions used but not defined in this Act shall have the meanings assigned to them in the Code.

(*3*) References in this Act to the incidents of alienations shall, notwithstanding the abolition of the alienations by this Act, be construed as references to the incidents as they were in force immediately before the appointed date.

(*4*) If any question arises—

(*i*) whether any land is an alienation,

(*ii*) whether any alienation is a grant of soil or an assignment of land revenue or both or is a grant of total or partial exemption from payment of land revenue,

(*iii*) whether any alienation is a community service inam or watan,

(*iv*) whether a commutation settlement in respect of any watan has or has not been effected,

(*v*) whether any land held under an alienation is or is not alienable without the permission of a competent authority,

(*vi*) whether any alienation is hereditary or for the life-time of the alienee, or

(*vii*) whether any person is an inferior holder or a permanent tenant,

the State Government shall decide the question and such decision shall be final:

Provided that the State Government may authorize any officer to decide questions arising under any of the clauses (*i*), (*ii*), (*iii*), (*iv*), (*v*), (*vi*) and (*vii*) and subject to an appeal to the State Government, the decision of such officer shall be final.

Act not to apply to certain kinds of alienations.

3. (*1*) Nothing in this Act shall apply to—

(*a*) Devasthan inams or inams held by religious or charitable institutions ;

(*b*) alienations held for service useful to Government other than watan ;

(*c*) any pension granted to an ex-servant of a former Indian State in consideration of the service rendered by him to such state ;

(*d*) revenue-free sites granted by the ruling authority for the time being before merger for the construction of schools, colleges, hospitals, dispensaries, religious or charitable institutions or other public works from which no profit is intended to be derived ;

(*e*) the sums payable under the rules for the settlement of the saranjams of the Feudatory Jagirdars of Kolhapur published in Government Notification in the Political and Services Department No. FCK. 1053, dated the 19th April 1954 ;

(*f*) the land tenure to which the provisions of any of the enactments specified in the Schedule apply ;

(*2*) Where an alienation is held jointly for service appertaining to a watan and for any other service useful to Government then for the purposes of this Act, the State Government shall, after holding such inquiry as it may think fit, decide what portion of such alienation shall be deemed to be an alienation held for service appertaining to a watan and what portion thereof shall be deemed to be an alienation held for any other service useful to Government.

CHAPTER II.

Abolition of alienations and conferment of occupancy rights.

Abolition of alienations and rights and incidents in respect thereof.

4. Notwithstanding anything contained in any usage, settlement, grant, agreement, sanad, order, rule, notification or Vat Hukum or any decree or order of a Court or any law for the time being applicable to any alienation in the merged territories, with effect from and on the appointed date—

(*i*) all alienations shall be deemed to have been abolished ;

(*ii*) save as expressly provided by or under this Act all rights legally subsisting on the said date in respect of such alienations and all other incidents of such alienations shall be deemed to have been extinguished.

Liability of alienated lands to payment of land revenue.

5. Subject to the other provisions of this Act all alienated lands are and shall be liable to the payment of land revenue in accordance with the provisions of the Code and the rules made thereunder and the provisions of the Code and rules relating to unalienated lands shall apply to such lands.

Occupancy rights in respect of alienated lands held under community service inam.

6. In the case of an alienated land held under a community service inam—

(*a*) if such land is in the actual possession of the alienee or in possession of a person holding through or from him other than an inferior holder, such alienee, and

(*b*) if such land is in the possession of an inferior holder, such inferior holder,

shall be primarily liable to the State Government for the payment of land revenue due in respect of the land held by him and shall be entitled to all the rights and shall be liable to all the obligations in respect of such land as an occupant under the Code or the rules made thereunder:

Provided that if under the terms of the alienation such land is resumable for non-performance of service, the alienee or inferior holder, as the case may be, shall be entitled to the rights of an occupant in respect of such land on payment to the State Government of the occupancy price equal to six times the amount of the full assessment of such land within the prescribed period:

Provided further that if such land under the terms of alienation was not alienable except with the permission of a competent authority, such land shall not be transferable or partible by metes and bounds without the previous sanction of the Collector and except on payment of such amount as the State Government may by general or special order determine.

Occupancy rights in respect of lands held under watan.

7. All land held under a watan is hereby resumed and shall be regranted to the holder in accordance with the following provisions, namely:—

(*1*) in the case of a watan, if the commutation settlement permits the transfer of the land appertaining to such watan, the land shall be regranted to the holder without payment of any occupancy price;

(*2*) in the case of a watan, to which clause (1) does not apply, the land appertaining to the watan shall be regranted to the holder on payment of the occupancy price equal to twelve times the amount of the full assessment of such land within the prescribed period:

Provided that in respect of the land held under a watan which has not been assigned towards the emoluments of the person performing the service appertaining to the watan, occupancy price equal to six times the amount of the full assessment of such land shall be paid by the holder within the aforesaid period for its regrant;

(*3*) the occupancy of the land regranted under clause (2) shall not be transferable or partible by metes and bounds without the previous sanction of the Collector and except on payment of such amount as the State Government may by general or special order determine.

Explanation.—For the purpose of this section, the expression "holder" shall include—

(*1*) an alienee holding land under a watan, and

(*2*) in the case of a watan the commutation settlement in respect of which permits the transfer of the land appertaining to the watan, a person in whom the ownership of such land for the time being vests.

What persons to be occupants in Wanta or Giras.

8. (*1*) In a Wanta or Giras,—

(*i*) in the case of land other than Barkhali land—

(*a*) if such land is in the actual possession of the Girassia or in the possession of a person other than a permanent tenant, holding through or from the Girassia, such Girassia, and

(*b*) if such land is in the possession of a permanent tenant, such permanent tenant,

(*ii*) in the case of Barkhali land, held as Jiwai land,—

(*a*) if such land is in the actual possession of the holder thereof (hereinafter referred to as the Jiwaidar) or in the possession of a person other than a permanent tenant holding through or from the Jiwaidar, such Jiwaidar, and

(*b*) if such land is in the possession of a permanent tenant, such permanent tenant, and

(*iii*) in the case of any other Barkhali land other than Devasthan and Pirasthan land or land held for service useful to Government, the holder of such land,

shall be primarily liable to the State Government for the payment of land revenue due in respect of the land held by him and shall be entitled to all the rights and shall be liable to all the obligations in respect of such land as an occupant under the Code or the rules made thereunder :

Provided that in the case of the land referred to in sub-clause (*b*) of clause (*i*) and sub-clause (*b*) of clause (*ii*), the permanent tenant shall be entitled to the rights of an occupant on payment in the prescribed manner to the Girassia or Jiwaidar, as the case may be, of the occupancy price equivalent to six times the amount of the full assessment of such land :

Provided further that in the case of Barkhali land referred to in clause (*iii*), if such land was held as Dharmadaya Chakariat or Pasaita Chakariat and was not a permanent alienation within the meaning of the Baroda Giras Rules, the holder of such land shall be entitled to the rights of an occupant on payment to the State Government of the occupancy price equivalent to six times the amount of the full assessment of such land.

(*2*) The occupancy of land conferred on the holder of a Dharmadaya Chakariat or Pasaita Chakariat land which was not a permanent alienation within the meaning of the Baroda Giras Rules shall not be transferable or partible by metes and bounds without the previous sanction of the Collector and except on payment of such amount as the State Government may by general or special order determine.

Occupancy rights in respect of alienated land to which section 6, 7 or 8 does not apply.

9. In the case of an alienated land to which the provisions of section 6, 7 or 8 do not apply,

(*a*) if such land is in the actual possession of the alienee or is in the possession of a person holding through or from him other than an inferior holder, such alienee, and

(*b*) if such land is in the possession of an inferior holder, such inferior holder,

shall be primarily liable to the State Government for the payment of land revenue due in respect of the land held by him and shall be entitled to all the rights and shall be liable to all the obligations in respect of such land as an occupant under the Code or the rules made thereunder :

Provided that if in respect of an alienated land the alienation consists of the grant of the soil with or without exemption from payment of land revenue, the alienee or the inferior holder, as the case may be, shall be entitled to the rights of an occupant in respect of such land on payment to the State Government of the occupancy price equal to six times the amount of the full assessment of such land within the prescribed period :

Provided further that if under the terms of the alienation such land was not alienable except with the permission of a competent authority, the occupancy of the land shall not be transferable or partible by metes and bounds without the previous sanction of the Collector and except on payment of such amount as the State Government may by general or special order determine.

Effect of failure to pay occupancy price.

10. (*1*) If any person, who is liable to pay to the State Government the occupancy price in respect of any land under section 6, 7, 8 or 9, fails to pay the same within the prescribed period, he shall be deemed to be unauthorizedly occupying the land and shall be liable to be summarily ejected in accordance with the provisions of the Code.

(*2*) If any person, who is liable to pay to the Girassia or Jiwaidar, as the case may be, the occupancy price in respect of any land under section 8, fails to pay the same within the prescribed period, it shall be recoverable as an arrear of land revenue and the amount so recovered shall be paid to the Girassia or Jiwaidar, as the case may be.

All public roads, etc., situate in alienated land to vest in Government.

11. All public roads, lanes and paths, the bridges, ditches, dikes and fences, on, or beside, the same, the bed of the sea and of harbours, creeks below high water mark, and of rivers, streams, nallas, lakes, wells and tanks, and all canals, and water courses, and all standing and flowing water, and all unbuilt village site lands, all waste lands and all uncultivated lands (excluding lands used for building or other non-agricultural purposes) which are situate within the limits of any alienated land shall, except in so far as any rights of any person other than the alienee may be established in or over the same and except as may otherwise be provided by any law for the time being in force, vest in, and shall be deemed to be with all rights in or over the same or appertaining thereto the property of, the State Government and all rights held by an alienee in such property shall be deemed to have been extinguished and it shall be lawful for the Collector, subject to the general or special orders of the State Government, to dispose them of as he deems fit, subject always to the rights of way and other rights of the public or of individuals legally subsisting.

Explanation.—For the purposes of this section, land shall be deemed to be uncultivated if it has not been cultivated for a continuous period of three years immediately before the appointed date.

XVI of 1927. **12.** The rights to trees specially reserved under the Indian Forest Act, 1927, or any other law for the time being in force, except those the ownership of which has been transferred by the State Government under any contract, grant or law for the time being in force shall vest in the State Government and nothing in this Act shall in any way affect the rights of the State Government to apply the provisions of the Indian Forest Act, 1927, as in force in the State of Bombay to forests in an alienated land. Rights to trees.

13. Nothing in this Act or any other law for the time being in force shall be deemed to affect the rights of any alienee subsisting on the appointed date to mines or mineral products in alienated land granted or recognised under any contract, grant or law for the time being in force or by custom or usage. Right to mines or mineral products.

CHAPTER III.

Compensation and Award thereof.

14. (*1*) In the case of an alienation consisting of assignment of the whole or part of the land revenue of any land or village— Compensation in respect of alienation consisting of assignment of land revenue.

(*i*) if the alienation was continuable as hereditary without being subjected to any deduction or cut at the time of each succession, a sum equal to seven times the amount of such land revenue,

(*ii*) if the alienation was continuable as hereditary but subject to a deduction or cut at the time of each succession, a sum equal to five times the amount of such land revenue, and

(*iii*) if the alienation was continuable for the life time of the alienee, a sum equal to three times the amount of such land revenue,

shall be paid to the alienee as compensation for the abolition of the alienation.

(*2*) For the purpose of sub-section (*1*), the amount of land revenue shall be the amount received or due to the alienee on account of assignment of land revenue for the year immediately preceding the appointed date.

15. (*1*) In the case of an alienation consisting of a cash allowance or allowance in kind, the alienee shall be paid— Compensation in respect of allowances in cash or kind.

(*i*) seven times the amount of the cash allowance or of the value of the allowance in kind, as the case may be, if the alienation was hereditary without being subjected to deduction or cut at the time of each succession ;

(*ii*) five times the amount of the cash allowance or the value of the allowance in kind, as the case may be, if the alienation was hereditary but subject to a deduction or cut at the time of each succession ; or

(*iii*) three times the amount of cash allowance or the value of the allowance in kind, as the case may be, if the alienation was continuable for the life-time of the alienee :

Provided that if under the terms of a grant any such cash allowance or allowance in kind was received by a widow for the purpose of her maintenance, it shall be continued to such widow for her life-time.

(*2*) For the purpose of sub-section (*1*), the amount of cash allowance shall be the amount paid or payable to the alienee for the year immediately preceding the appointed date and the value of the allowance in kind shall be the value of the allowance in kind paid or payable to the alienee for the year immediately preceding the appointed date, such value being determined in the prescribed manner.

Compensation in respect of property referred to in section 11.

16. Any alienee having any right or interest in any property referred to in section 11 shall, if he proves to the satisfaction of the Collector that he had any such right or interest, be entitled to compensation in the following manner, namely :—

(*i*) if the property in question is waste or uncultivated but is cultivable land, the amount of compensation shall not exceed three times the assessment of the land :

Provided that if the land has not been assessed, the amount of compensation shall not exceed such amount of assessment as would be leviable in the same village on the same extent of similar land used for the same purpose ;

(*ii*) if the property in question is land over which the public has been enjoying or has acquired a right of way or any individual has any right of easement, the amount of compensation shall not exceed the amount of the annual assessment leviable in the village for uncultivated land in accordance with the rules made under the Code or if such rules do not provide for the levy of such assessment, such amount as in the opinion of the Collector shall be the market value of the right or interest held by the claimant ;

(*iii*) if there are any trees or structures on the land, the amount of compensation shall be the market value of such trees or structures, as the case may be.

Explanation.—For the purposes of this section, the "market value" shall mean the value as estimated in accordance with the provisions of sub-section (*1*) of section 23 and section 24 of the Land Acquisition Act, 1894, in so far as the said provisions may be applicable. I of 1894.

Method of awarding compensation to alienee.

17. (*1*) Any alienee entitled to compensation under section 14, 15 or 16 shall within the prescribed period apply in writing to the Collector for determining the amount of compensation payable to him under the said section.

(*2*) On receipt of an application under sub-section (*1*), the Collector shall after making formal enquiry in the manner provided by the Code, make an award determining the amount of compensation. Where there are co-sharers claiming compensation, the Collector shall by his award apportion the compensation between the co-sharers.

Method of awarding compensation for abolition, etc., of rights of other person in property.

18. (*1*) If any person is aggrieved by the provisions of this Act as abolishing, extinguishing or modifying any of his rights to, or interest in, property and if compensation for such abolition, extinguishment or modification has not been provided for in the provisions of this Act, such person may apply to the Collector for compensation.

(*2*) The application under sub-section (*1*) shall be made to the Collector in the prescribed form within the prescribed period. The Collector shall, after holding a formal inquiry in the manner provided by the Code, make an award determining the compensation in the manner and according to the method provided for in sub-section (*1*) of section 23 and section 24 of the Land Acquisition Act, 1894.

I of 1894.

(*3*) Nothing in this section shall entitle any person to compensation on the ground that any alienated land which was wholly or partially exempt from payment of land revenue has been under the provisions of this Act made subject to the payment of full assessment in accordance with the provisions of the Code.

Provisions of Land Acquisition Act, 1894, applicable to award.

19. Every award made under section 17 or 18 shall be in the form prescribed in section 26 of the Land Acquisition Act, 1894, and the provisions of the said Act shall, so far as may be, apply to the making of such award.

I of 1894.

Appeal against Collector's award.

20. An appeal shall lie against an award of the Collector to the Bombay Revenue Tribunal constituted under the Bombay Revenue Tribunal Act, 1939, notwithstanding anything contained in the said Act.

Bom. XII of 1939.

Procedure before Revenue Tribunal.

21. (*1*) The Bombay Revenue Tribunal shall, after giving notice to the appellant and the State Government, decide the appeal and record its decision.

(*2*) In deciding an appeal under this Act the Bombay Revenue Tribunal shall exercise all the powers which a Court has and shall follow the same procedure which a Court follows in deciding appeals from the decree or order of an original court under the Code of Civil Procedure, 1908.

V of 1908.

Limitation.

22. Every appeal made under this Act to the Bombay Revenue Tribunal shall be filed within a period of sixty days from the date of the award of the Collector. The provisions of sections 4, 5, 12 and 14 of the Indian Limitation Act, 1908, shall apply to the filing of such appeal.

IX of 1908.

Court-fees.

23. Notwithstanding anything contained in the Court-fees Act, 1870, every appeal made under this Act to the Bombay Revenue Tribunal shall bear a court-fee stamp of such value as may be prescribed.

VII of 1870.

Finality of award and decision of Revenue Tribunal.

24. The award made by the Collector subject to an appeal to the Bombay Revenue Tribunal and the decision of the Bombay Revenue Tribunal on the appeal shall be final and conclusive and shall not be questioned in any suit or proceeding in any Court.

Inquiries and proceedings to be judicial proceedings.

25. All inquiries and proceedings before the Collector and the Bombay Revenue Tribunal under this Act shall be deemed to be judicial proceedings within the meaning of sections 193, 219 and 228 of the Indian Penal Code.

XLV of 1860.

Amount of compensation to be payable in transferable bonds.

26. The amount of compensation payable under the provisions of this Act shall be payable in transferable bonds carrying interest at the rate of three per cent. per annum from the date of the issue of such bonds and shall be repayable during a period of twenty years from the date of the issue of such bonds by equated annual instalments of principal and interest. The bonds shall be of such denominations and shall be in such forms as may be prescribed.

CHAPTER IV.

Miscellaneous.

Aliences to deliver records to authorized officers.

27. (*1*) Whenever an officer authorized by the State Government in this behalf so directs, an alienee shall deliver to him or such other officer as may be specified in the direction, the records relating to the alienated land maintained by the alienee.

(*2*) If the alienee fails without reasonable cause to deliver any such records, he shall, on conviction, be punished with fine which may extend to two hundred rupees. In the case of a continuing failure to deliver any such records the alienee shall be punished with an additional fine which may extend to twenty-five rupees for every day during which such failure continues after conviction for the first such failure.

Provisions of Bom. LXVII of 1948 to govern the relations of landlord and tenants.

28. Nothing in this Act shall in any way be deemed to affect the application of any of the provisions of the Bombay Tenancy and Agricultural Lands Act, 1948, to any alienated land or the mutual rights and obligations of a landlord and his tenants save in so far as the said provisions are not in any way inconsistent with the express provisions of this Act. Bom. LXVII of 1948.

Rules.

29. The State Government may, subject to the condition of previous publication, make rules for the purposes of carrying out the provisions of this Act. Such rules shall, when finally made, be published in the *Official Gazette*.

Saving.

30. Nothing contained in this Act shall affect,—

(*1*) any obligation or liability already incurred under an incident of an alienation before the date on which this Act comes into force, or

(*2*) any proceeding or remedy in respect of such obligation or liability,

and any such proceeding or remedy may be instituted, continued or enforced as if this Act had not been passed.

SCHEDULE.

(*See* section 3.)

1. The Bombay Merged Territories (Ankadia Tenure Abolition) Act, 1953 (Bom. XLIII of 1953).
2. The Bombay Kauli and Katuban Tenures (Abolition) Act, 1953 (Bom. XLIV of 1953).
3. The Bombay Merged Territories (Baroda Mulgiras Tenure Abolition) Act, 1953 (Bom. XLV of 1953).
4. The Bombay Merged Territories (Baroda Watan Abolition) Act, 1953 (Bom. XLVI of 1953).
5. The Bombay Merged Territories Matadari Tenure Abolition Act, 1953 (Bom. XLVIII of 1953).
6. The Bombay Merged Territories (Janjira and Bhor) Khoti Tenure Abolition Act, 1953 (Bom. LXXI of 1953).
7. The Bombay (Okhamandal Salami Tenure Abolition) Act, 1953 (Bom. I of 1954).
8. The Bombay Merged Territories and Areas (Jagirs Abolition) Act, 1953 (Bom. XXXIX of 1954).